

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

v.

JACOB TY HARDING

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Case Number: 4:10-cr-00198
Judge Mazzant

MEMORANDUM OPINION & ORDER

Pending before the Court is Defendant's Motion for Reconsideration (Dkt. #69). The Court, having considered the motion, the record, and the applicable law, finds that the motion must be **DENIED**.

BACKGROUND

On November 10, 2010, Defendant Jacob Ty Harding ("Harding") was indicted for two counts of Felon in Possession of a Firearm in violation of 18 U.S.C. § 922(g)(1), one count of possession of a Firearm in Furtherance of a Drug Trafficking Crime in violation of 18 U.S.C. § 924(c), and one count of Possession of a Firearm While an Unlawful User of a Controlled Substance in violation of 18 U.S.C. § 922(g)(3) (Dkt. #36 at p. 3). On January 12, 2011, Harding pleaded guilty to Count Three, Possession of a Firearm in Furtherance of a Drug Trafficking Crime (Dkt. #29). The Court sentenced Harding to 60 months' imprisonment to be followed by a five-year term of supervised release. The supervised release was subject to the standard conditions of release, plus special conditions including financial disclosure, drug testing and treatment, mental health treatment, and a \$100 special assessment (Dkt. #66 at p. 1).

On January 10, 2018, Harding completed his period of imprisonment and began service of the supervision term (Dkt. #66 at p. 2). On October 2, 2018, the U.S. Probation Officer executed a warrant for Harding's arrest based on alleged violations of his supervised release conditions (Dkt.

#46). Harding was arrested on May 7, 2019. On May 13, 2019, Harding entered a plea of true to five alleged violations:

CONDITION

NATURE OF NONCOMPLIANCE

Allegation 1.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance.

On June 20, June 26, July 9, July 16, 2017, the defendant submitted urine specimen which tested positive for methamphetamine. On June 26, 2018, the defendant admitted both verbally and in writing to use of methamphetamine on June 20, 2018.

These urine specimens were sent to Alere Toxicology Service, where urine specimen interpretation reports determined new use occurred between the aforementioned specimen collection dates.

Allegation 2.

The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.

On September 9, 2018, the defendant was arrested by Plano Texas Police Department for committing the offenses of: Possession of Marijuana; Criminal Trespass; Manufacture/Delivery of a Controlled Substance PG 1 (4G Less Than 200 G-Methamphetamine); Possession of a Controlled Substance in PG 1 (4G Less Than 200 G-Oxycodone); Manufacture/Delivery of a Controlled Substance PG 3 or 4 (Less than 28G-Xanax); Forgery of Government Record; and Failure to Identify Giving False/Fictitious Information.

Allegation 3.¹

The defendant shall not commit another federal, state, or local crime.

On August 2, 2018, the defendant failed to report to the probation officer as instructed, as verbal instruction to report was provided on July 9, 2018.

Allegation 4.

The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month.

¹ Harding entered a plea of true to those aspects of Allegation 3 relating to Cause Nos. 84-501, 84-502, 84-503, and 84-504.

Allegation 5.

The defendant shall participate in a program of testing and treatment for drug and alcohol abuse, under the guidance and direction of U.S. Probation Office, until such time as the defendant is released from the program by the probation officer.

On July 19, 2018, the defendant failed to attend substance abuse group counseling at Addiction Recovery Center, Lewisville, Texas, as instructed.

On July 25, 2018, the defendant failed to report to the random drug testing program, Addiction Treatment Resources, as instructed.

On August 2, 2018, the defendant failed to attend substance abuse group counseling at Addiction Recovery Center, Lewisville, Texas, as instructed.

On August 3, 2018, the defendant failed to report to the random drug testing program, Addiction Treatment Resources, as instructed.

On August 6, 2018, the defendant failed to report to the random drug testing program, Addiction Treatment Resources, as instructed.

On August 8, 2018, the defendant failed to report to the random drug testing program, Addiction Treatment Resources, as instructed.

(Dkt. #49).

On May 29, 2019, this Court adopted the Report and Recommendation of the United States Magistrate Judge, revoking Harding's supervised release and committing him to 30 months' imprisonment, followed by 23 months of supervised release. to run consecutively to any term in relation to state charges. (Dkt. #67). Harding was convicted and sentenced to a term of 10 years confinement with the Texas Department of Criminal Justice (Dkt. #69 at p.1). On July 22, 2021, Harding was released from the Texas Department of Criminal Justice and transferred to FCI Terre

Haute, where he currently remains, to serve out his federal sentence (Dkt. #69 at p. 2). *See* <https://www.bop.gov/inmateloc/> (Register Number: 18133-078). The Bureau of Prisons (“BOP”) projects he will be released on October 18, 2023. *Id.*

Harding seeks a reconsideration or reduction of his sentence and/or compassionate release based on a number of factors, including health concerns and familial hardships. Harding claims his mother’s health is diminishing and he needs to care for her (Dkt. #69 at p. 3). Harding also has his own health concerns involving ulcerative colitis and chronic back pain, as well as a weakened immune system since COVID-19 (Dkt. #69, Exhibit A). Harding requests the Court “reconsider and abate/modify and/or amend” the judgment in “assessing a consecutive term.” The Government has not filed a response.

The Court after considering the Defendant’s motion, the record, and the applicable law, finds that the motion is **DENIED**. It is therefore,

ORDERED that Defendant Jacob Ty Harding’s Motion for Reconsideration (Dkt. #69) is **DENIED**.

IT IS SO ORDERED.

SIGNED this 4th day of November, 2021.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE